

Copy of order dt 1-30-06-09.

In the Court of Shri Fateh Deep Singh,
Sessions Judge, Kapurthala.

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1) Bail Application No.Nil dated 11.06.2009.

Date of Order:30.06.2009.

G.No.-829/22-10-09.

State Vs. Sunil Chopra son of R.C.Chopra, r/o 339 Saheed
Udham Singh Nagar, Jalandhar.

...Accused-petitioner.

**(Supplementary Bail Application under Section
438 Cr.P.C.)**

F.I.R.No. 163 dated 08.04.2009.

Under Sections:295-A, 153-A, 120-B IPC

read with Section 3(1)(x) of S.C. & S.T. Act

Police Station: City Kapurthala.

2) Bail Application No.Nil dated 11.06.2009.

Date of Order:30.06.2009.

State Vs. Ashu Khurana w/o Rajesh Khurana, House No.75-D,
Type-IV Special, R.C.F, Kapurthala.

..Accused-petitioner.

**(Supplementary Bail Application under Section
438 Cr.P.C.)**

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Sub-Intendant
District & Sessions Judge
Kapurthala

11 APR 2019

F.I.R.No. 163 dated 08.06.2009

Under Sections:153-A/295-A/120-B IPC

And Section 3(1)(x) of Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act, 1989.

Police Station: City Kapurthala.

3) Bail Application No.Nil dated 12.06.2009.

Date of Order: 30.06.2009.

State Vs. Narendra Khanna , M.D.Srijan Publishers Pvt.Ltd.

R/o Plot No.10, 1st Floor, Vishal Market, Commercial Complex, Mukherji Nagar, Delhi-9.

..Accused-Petitioner

(Supplementary Bail Application under Section 438 Cr.P.C.)

F.I.R.No. 163 dated 08.06.2009.

Under Sections:153-A/295-A/120-B IPC

And Section 3(1)(x) of Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act, 1989.

Police Station: City Kapurthala.

4) Bail Application No. Nil dated 12.06.2009.

Date of Order: 30.06.2009.

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District & Sessions Judge
Kapurthala

ATTESTED
Superintendent
District & Sessions Judge
Kapurthala

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State Vs. Manisha Sharma d/o Dr.Satish Sharma, c/o Delhi Public School Noida, U.P.

...Accused-Petitioner

(Supplementary Bail Application under Section 438 Cr.P.C.)

F.I.R.No. 163 dated 08.06.2009.

Under Sections:153-A/295-A/120-B IPC

And Section 3(1)(x) of Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act, 1989.

Police Station: City Kapurthala.

5) Bail Application No. Nil dated 15.06.2009.

Date of Order: 30.06.2009.

State Vs. Suraj Anand son of Sh. Madan Lal Anand, Prop. M/s Swaraj Kitab Ghar, Mai Hiran Gate, Jalandhar.

...Accused-petitioner.

(Supplementary Bail Application under Section 438 Cr.P.C.)

F.I.R.No. 163 dated 08.06.2009.

Under Sections:153-A/295-A/120-B IPC

And Section 3(1)(x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

Police Station: City Kapurthala.

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Subordinate
District & Sessions Judge
Kapurthala

11 APR 2019

Present: Sh.Amanpal Singh Dhillon, Advocate for accused-
petitioner Sunil Chopra.
Sh.Chandra Shekhar, Advocate for petitioner
Ashu Khurana.
Sh.R.K.Bhalla, Advocate for petitioners Narendra
Khanna, Manisha Sharma and Suraj Anand.

Sh.B.S.Dhillon, Public Prosecutor for State-respondent
with Daljit Singh Inspector/SHO and ASI Jit Lal.

S/Sh.Dalbir Singh and Daljit Singh, Advocates for the
complainant.

Order

This order shall co-jointly dispose off the above detailed
five Anticipatory Bail Applications including the Supplementary Bail
Applications of the petitioners Sunil Chopra, Ashu Khurana,
Narendra Khanna, Manisha Sharma, and Suraj Anand moved under
Sections 438 Cr.P.C. in the case detailed in the head of this order
and having arisen out of the same very F.I.R. and for the sake of
convenience and brevity are being disposed off together. Upon
notice Sh.B.S.Dhillon alongwith Daljit Singh Inspector/SHO and
ASI Jit Lal have put in appearance on behalf of the State and
detailed the facts as under:-

2. A complaint dated 23.05.2009 was moved by Charanjit
Hans and others purporting to be members of Rawan Sena Action
Committee, Kapurthala to the Deputy Commissioner, Kapurthala
wherein, they alleged that in Sacred Heart Public School Kanjli
Road, Kapurthala, a Hindi Text Book "**Parag**" Part 7 published by

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Sup. Magistrate
District & Sessions Judge
Kapurthala
11 APR 2019

accused Narendra Khanna has been prescribed by its Chairman, accused-petitioner Sunil Chopra with an intention to lower esteem of their Community in the Society which has been written by accused-petitioner Manisha Sharma, wherein, in Chapter 6, a story about Bhagwan Valmik Ji to lower the prestige of Balmiki Community has been given, which is derogatory to their religion, which has hurt their religious sentiments and requested taking of suitable action against these persons threatening to start agitation on the roads, as, it has distorted the facts. This complaint was forwarded to the police and subsequent upon which the present case was got registered under Section 295-A of the I.P.C against accused-petitioners Manisha Sharma, the Writer, Narendra Khanna, the Publisher, Sunil Chopra, the Chairman of the School, Ashu Khurana, the Member of the School and Suraj Anand and during the course of present bail applications, offences under Sections 153-A, 120-B IPC alongwith Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act, 1989 were added.

3. Sh. B.S.Dhillon Ld. Public Prosecutor for the State alongwith Sh.Narinder Singh and Sh.Dalbir Singh, Advocates for the complainant have opposed the grant of anticipatory bail applications on the grounds that by their intentional acts, the

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District & Sessions Judge
Kapurthala

11 APR 2019

accused have demeaned the Community of the complainant and have hurt the religious feelings and it is a deep rooted conspiracy and which is prejudicial to the maintenance of harmony between the Communities and if such like acts are allowed to go unchecked, will bring about anarchy and lawlessness in the Society and prayed for dismissal of the bail applications.

4. S/Sh.Amanpal Singh Dhillon, Chandra Shekhar, and R.K.Bhalla, Advocates have submitted on behalf of the accused-petitioners that petitioners Sunil Chopra and Ashu Khurana have already joined the investigations as per the stand of the Investigating Officer and that the District Administration has acted in a partisan manner having buckled under threat of the complainant and that there was no evidence that the accused-petitioners had any intention of writing of such a matter as would hurt the religious sentiments of any particular Community and have gone through the various religious Text Books and historical material to impress upon the Court that what has been detailed in the Text Book which is a prescribed course is a historical fact and does not stand covered under the provisions of Sections 295-A, 153-A nor under the provisions of Section 3 of the Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act, 1989 and to support their contentions have cited Pishora Singh Vs.State of

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Punjab reported in 2002(2) RCR(Criminal) 215, The Trustees of Safdar Hashmi Memorial Trust Vs. Govt. of NCT of Delhi reported in 2001(4)RCR(Criminal) 737, Jonathan Nitin Brady Vs. State of West Bengal reported in 2008(4) RCR(Criminal) 370, Bilal Ahmed Kaloo Vs.State of Andhra Pradesh reported in 1997(2) Apex Court Journal 362(S.C.) and Manzar Sayeed Khan Vs. State of Maharashtra and Anr. reported in 2007(2) Apex Court Judgments 629 .

5. Appreciating the arguments of the two sides, the very crux of the allegations revolve around, if the accused by their intentional act in writing and publishing this story upon the life of **SAGE RISHI VALMIK JI** have knowingly promoted enmity between different groups on the basis of religion and have deliberately with malicious intention outraged the religious feelings of a particular Community and thus, have by this conspiracy intentionally insulted and humiliated member of Scheduled Caste Community. As has been argued by the Counsel for the petitioners on the basis of The Trustees of Safdar Hashmi Memorial Trust's, Jonathan Nitin Brady's, Bilal Ahmed Kaloo's and Manzar Sayeed Khan's cases ibid which could by no means countered by the prosecution, the Hon'ble apex Court as well as a Full Bench view of the Hon'ble Delhi High Court have laid down

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that for the promotion of feeling of enmity, hatred or ill will between different religion or rational groups or caste and Community, it is necessary that at least two such groups or Communities should be involved and mere inciting the feeling of one Community or group without any relations to any other Community or group cannot attract the provisions of Section 153-A of the IPC and furthermore in **The Trustees of Safdar Hashmi Memorial Trust's case ibid** it has been held that to tantamount to commission of offence under Section 295-A of the I.P.C, the insult to religion offered unwillingly or carelessly or without any deliberate or malicious intention of outraging the religious feelings of that Class are not encompassed by this provision and is, thus, an aggravated form of insult of religion, when it is perpetrated with deliberate and malicious intention of outraging the religious feelings of that Class. The arguments that the contents of the story in Vol.VII, Chapter 6 pages 34 to 37 of Hindi Book "**Parag**" are intentionally, twisted and distorted facts could not be substantiated by the prosecution, as, mere statement of one Lekh Raj Parvana with no credentials of a historian of repute, when, as has been the voluminous literature placed before this Court by the defence Counsel detailed in

Maharishi Valmiki, Sankshipt Sakandpuran,

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Subordinate
District & Sessions Judge
Kapurthala

11 APR 2015

Adhyatamramayan, Sankshipt Bhavishyapuran, 20
 Shrimadvalmikiya Ramayan, Kalyan Sanskar-Ank and
 Pramukh Rishi-Muni. The famous writer of "Valmiki Jyanti aur
 Bhangi Jaati" Sh.Bhagwan Dass, Advocate proves that Rishi
 Valmiki was a Brahmin by birth and so does the famous writings
 Vrahad Hindi Gyan Kosh, Anand Ramayan, Kritivass
 Ramayan, Rajya Kanda clearly expresses the historical and
 religious views that Rishi Valmik Ji as the word Valmik means "Ant-
 hills" was earlier known as Ratna Kara/Ratna, a Brahmin by birth
 being son of Pracheta, a Brahmin from Bhrigu Dynasty and who
 has been earlier swayed by pursuing violence and by leading a life of a
 met another known SAGE Narada, his life underwent a great
 change and thus, this transformation was viewed as a purification
 of a soul and birth of a divine being. From this historical and
 religious literature, it negates the arguments of the prosecution
 that Rishi Valmik Ji was from a lower Caste and as to his past or
 that accused had twisted and distorted the truth to demean the
 SAGE RISHI VALMIK JI or belongs to the very community, to
 which, the complainant belongs, thus, necessary elements to
 attract the offences under Sections 295-A, 153-A of the I.P.C. that
 there was an intentional and deliberate, malicious publication to
 outrage the religious feelings and to bring about feeling of hatred

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11 APR 2017

between two Classes of Communities is apparently missing in view of this historical support. In view of the law laid down in Pishora Singh's case supra taken support of by the Counsel for the petitioners, where, it has been laid down, it is essential that at the time of commission of the offence, the accused should be aware that the complainant belongs to a caste covered under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989 so notified. That as has been detailed above, in the absence of any evidence that the complainant and Rishi Valmik Ji belong to the same Community covered under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989 and there being no case of intentional insult or intimidation/humiliation and story being based on historical facts, the provisions of section 18 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989 is not attracted.

6. Since there is no satisfactory reason spelled out by the prosecution that the custodial interrogation of any of the accused-petitioners is essential, and in view of the Hon'ble Supreme Court laid down in Jonathan Nitin Brady's case ibid cited on behalf of the accused-petitioners without taking them into custody, as, nothing is to be recovered from them and the fact that accused-petitioners Sunil Chopra, Ashu Khurana have already joined

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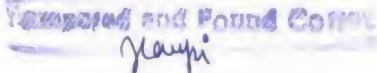
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(Fateh Deep Singh)
Sessions Judge, Kapurthala.



NUMBER OF THE BOARD OF REGISTRY **CL 1683**
 DATE OF THE COURT ORDER **8-4-19**
 NAME OF THE DEBTOR **Bent John**
 DATE OF THE COURT ORDER **8-4-19**
 NAME OF THE CREDITOR **77 APR 1919**
 NAME OF THE COURT **227**
 NAME OF THE JUDGE **227**
 NAME OF THE CLERK **227**

Confirmed to be true copy

Section 76 of the
Evidence Act)

Date of Delivery

SUPERINTENDENT

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